

SPECIAL NOTICE

July 8, 2004

For further information contact:
Telephone Information Center
1-800-647-7706 or (360) 705-6676

Alternate Formats (360) 705-6715
Teletype 1-800-451-7985

Water Rights Transfers Subject to the Real Estate Excise Tax

This notice explains the applicability of real estate excise tax to water rights when transferred separate from the land. In general, the tax applies when an existing water right transfers for valuable consideration.

Water Rights

Under state law, the waters of Washington collectively belong to the public and cannot be owned by any one individual or group. Instead, the state may grant individuals or groups the right to use water. A “water right” is a legal authorization to use a certain amount of public water for a designated purpose. The water must be put to “beneficial use,” which refers to a reasonable quantity of water applied to a non-wasteful use, such as irrigation, domestic water supply, industry and power generation, to name a few.

Water rights are transferable. An application for change/transfer of water right is made when changes are proposed for existing water rights. The Department of Ecology and Water Conservancy Boards process these applications.

Real Estate Excise Tax

Real estate excise tax (REET) is an excise tax on the transfer or sale of real property. Water rights fall within the definition of real property and are subject to REET when transferred for valuable consideration (WAC 458-61-335). Valuable consideration means money or anything of value given in return for the transfer.

The tax is based on the selling price. The tax rate varies by location and ranges from 1.28 to 2.78 percent. The seller must complete a real estate affidavit and pay the tax to the county treasurer or recorders office in the county where the water right exists.

Tax is due at the “time of sale.” When a water right transfers separate from the land, “time of sale” is when a water right certificate is issued. This is normally 35 days after the Department of Ecology has approved the application and the appeal period for objections to the approval of the water rights change has expired.

Taxable Transfers

REET applies when a water right is transferred to a new owner in exchange for valuable consideration. Examples of taxable transactions include:

- ◆ Water rights used on one person’s land are transferred for use on another person’s land (change in “place of use”) for a valuable consideration; or
- ◆ Consolidation of water rights when ownership of the rights transfers for a valuable consideration; or

- Development of a privately-owned water supply system or changes to a privately-owned water supply system when ownership of the rights transfers for a valuable consideration.

Tax Liability

By law, the seller is liable for the tax. However, a buyer becomes co-liable if the tax remains unpaid and the buyer or seller did not report the sale to the local county within 30 days of the sale/transfer.

Additional Information

For more information about real estate excise tax, please refer to Chapter 82.45 of the Revised Code of Washington and 458-61 Washington Administrative Code available online at <http://dor.wa.gov/content/laws/>. Direct specific tax questions to the Department of Revenue Special Programs Division by e-mail reetsp@dor.wa.gov, or by calling (360) 570-3265.

For more information about water rights, please visit the Department of Ecology's web site at www.ecy.wa.gov/programs/wr/rights/water-right-home.html. You may also contact the regional or field office nearest you:

Northwest Regional Office
3190 - 160th Avenue SE
Bellevue, WA 98008-5452
(425) 649-7000

Southwest Regional Office
PO Box 47775
Olympia, WA 98504-7775
(360) 407-6300

Eastern Regional Office
N. 4601 Monroe
Suite 202
Spokane, WA 99205-1295
(509) 329-3400

Central Regional Office
15 W. Yakima Ave.
Suite 200
Yakima, WA 98902-3452
(509) 575-2490

Teletype (TTY) users please call 711 or 1-800-833-6388

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